



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,258	04/12/2001	Carlos De La Huerga	250591.90295	3649

26710 7590 04/10/2003

QUARLES & BRADY LLP  
411 E. WISCONSIN AVENUE  
SUITE 2040  
MILWAUKEE, WI 53202-4497

EXAMINER

LINDINGER, MICHAEL L

ART UNIT PAPER NUMBER

2841

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/833,258

Applicant(s)

DE LA HUERGA, CARLOS

Examiner

Michael L. Lindinger

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-158 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-158 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maestre U.S. Patent No. 5,347,453 in view of Urquhart U.S. Patent No. 4,971,221 in further view of Gombrich U.S. Patent No. 4,857,716. Regarding Claims 1-52 and 100-158, Maestra teaches an apparatus for configuring an indicating configuration to be associated with a container, wherein the apparatus includes an indicator and data stored thereon related to an enhanced memory device, wherein the apparatus is a medication container, as well as the apparatus having a processor for programming a variety of data and sub-sets of information related to a user such as patient name, medication, dosage schedule, specific instructions, wherein the apparatus is configured to be updated by a pharmacy computer system (Col. 4, lines 45+; Col. 5, lines 20+; Col. 11, lines 35+; Col. 12, lines 1+; Col. 19, lines 1+; FIG. 3A-D, 7, 8A-C, 10-11, 14). Maestre does not explicitly teach a reader for reading a descriptor and a writer for writing data to the enhanced device. The Urquhart teaches a drug dispenser having

Art Unit: 2841

means for detecting dispensing events, wherein the device has readable signals that are interpreted by the microprocessor (Col. 4, lines 14-23; Col. 5, lines 40+; Col. 6, lines 5+). Gombrich teaches a patient identification and verification system comprising a general purpose computer system including appropriate printer devices for printout of information such as patient identification bracelets, patient identification labels, and item identification labels for drugs (Col. 8, lines 4+; Col. 9, lines 7+; Col. 11, lines 5-12; FIG. 1-3, 11-12, 26-28). It would have been obvious to a person skilled in the art at the time of the invention to not only realize that the Maestra reference includes reading and writing means to update the enhanced device for data storing and interpreting, but to also adapt the Maestra reference to include a printing apparatus to print a label or indicating device to be located on the apparatus. Maestra demonstrates a programmable memory that is accessed by the user, and coupled with explanations from the Urquhart reference, it shows that a device such as the Maestra reference inherently possesses a reading and writing device in order to update the data that is transmitted, received, and then displayed. By providing printing capabilities to the Maestra apparatus, information can be interpreted by a handheld device quickly and efficiently.

Regarding Claims 53-99, the combined teachings of the Maestre, Urquhart, and Gombrich references inherently possess the methods of providing sub-sets of medication stored in a container including an enhanced device for storing data related

Art Unit: 2841

to medications in the container, as well as the corresponding mounting and assembling steps needed to construct the apparatus.

***Prior Art***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Schollmeyer U.S. Patent No. 4,504,153 discloses a pharmacist-programmable medication prompting system and method.
- Shepard U.S. Patent No. 4,911,327 discloses a dispenser for providing scheduled dosages of pills according to a predetermined medication program.
- Kraft U.S. Patent No. 5,213,232 discloses a rotating apparatus for dispensing single homogeneous units such as medication pills.
- Rudick U.S. Patent No. 5,289,157 discloses a medicine reminder and storage device comprising a memory for alerting users of dosage times.
- Weinberger U.S. Patent No. 5,408,443 discloses a programmable medication dispensing system including a prescribing data entry station for a physician.
- Garmaise U.S. Patent No. 5,678,925 discloses a temperature sensing and indicating beverage mug.

Art Unit: 2841

***Conclusion***

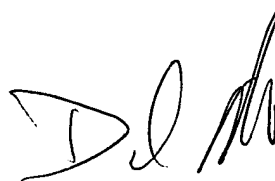
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael L. Lindinger whose telephone number is (703) 305-0618. The examiner can normally be reached on Monday-Thursday (7:30-6).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7318 for regular communications and (703) 746-7318 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Michael L. Lindinger  
Patent Examiner  
Art Unit 2841

MLL  
April 3, 2003

A handwritten signature in black ink, appearing to read 'D. Martin', is positioned above the printed name of David Martin.

DAVID MARTIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800